

CALL TO ORDER

Mayor Dziubek opened the meeting at 7:00 p.m.

“Sunshine Law” Announcement: Adequate notice of this public meeting has been provided by the Annual Notice; mailed electronically to the Hunterdon Democrat and Courier News; posted on the public bulletin board and on file in the Municipal Clerk’s Office.

FLAG SALUTE

ROLL CALL - Present: Mr. Severino, Mr. Bischoff, Mr. Mazza, Mrs. Dziubek.

Absent: Mr. Haynes

Others Present: J. Peter Jost, Esq., Kevin Smith, Township Engineer, and Ella M. Ruta, Township Clerk

APPROVAL OF MINUTES

- a. Special Meeting Minutes of September 29, 2009.

Mr. Bischoff made a motion to approve the Special Meeting Minutes of September 29, 2009 with a correction. Mr. Severino seconded. Vote: Ayes – Mr. Severino, Mr. Bischoff, Mr. Mazza, Mrs. Dziubek. Motion Carried.

- b. Regular and Executive Session Meeting Minutes of October 7, 2009.

The approval of the Regular and Executive Session Meeting Minutes of October 7, 2009 tabled for the next meeting.

VISITORS

Mr. Brian Plushanski, owner of Block 22. Lot 15 & 15.0, Frontage Road stated his intentions of applying for a quarry license. Mr. Plushanski explained in detail his present and future plans for the quarry. A period of questions and answers followed between the Committee and Mr. Plushanski. It was concluded that Mr. Plushanski should make application to the Planning Board.

REPORTS RECEIVED

- a. Road Dept.- Week Ending 10/02/09, 10/09/09
b. Tax Collector – September 2009
c. UTEC – September 8, 2009 Draft Minutes
October 13, 2009 Agenda

CORRESPONDENCE/WRITTEN COMMUNICATION

Mr. Bischoff mentioned the following correspondence:

- NJ Highlands Council Re: Municipal Build-Out Report. Mr. Bischoff recommended Committee read this report.
- NJDOT Re: Funding for NJDOT 2010 Municipal Aid Program (Perryville Road). The Township received \$110,000 of the \$183,000 requested.

- Highlands Council Re: Union Township Grants. Highlands Initial Assessment Grant has been increased to \$19, 000.00 Additional \$50,000.00 grant was approved for Highlands Plan Conformance.
- Executed Grant Agreements-Module 4-Grant #09-033-011-1025.

Mr. Severino mentioned the following correspondence: None

Mr. Mazza mentioned the following correspondence: None

Mrs. Dziubek mentioned the following correspondence: None

PUBLIC COMMENTS – None

OUT OF AGENDA ORDER – The Mayor re-ordered the Agenda to NEW BUSINESS in order to discuss the following:

- a. **Motion to Authorize the Mayor to Sign** – Cyrus Apgar – Deed Restricted Affordable Housing Property

Attorney Lloyd Tubman of Archer & Griener was present on behalf of Mr. Cyrus Apgar. She gave an explanation and background information concerning the requests of the deed restriction and an agreement that would allow the then property owners to terminate the deed restriction after 30 years.

Mr. Severino made a motion to approve the deed restriction and the agreement regarding Mr. Apgar's property, subject to Attorney Koenig's review and approval of same. Mr. Mazza seconded. Vote: Ayes – Mr. Bischoff, Mr. Severino, Mr. Mazza, Mrs. Dziubek. Motion carried.

RETURNING TO THE AGENDA

PUBLIC HEARING – 2nd reading - None

OLD BUSINESS

- a. **Discussion-** Union Twp. Municipal Offices Organizational Chart. Tabled for next meeting.
- b. The following resolution was introduced for adoption:

RESOLUTION #2009-140

Re: Authorizing Sale of Deed-Restricted Farm Property

Block 29, Lot 13

Township of Union ("Douglass Farm")

WHEREAS, the Township of Union acquired property known as Block 29, Lots 12 and a portion of 13, subsequently merged and now known as Block 29, Lot 13, having a total gross acreage of 100.3632 acres +, located on Perryville Road and County Route 513 in the Township of Union, County of Hunterdon, State of New Jersey, by deed dated July 27, 2000 and recorded on October 25, 2000 in Book 1250 at Page 0606 et. seq. in Hunterdon County Clerk's office, and commonly known as Douglass Farm; and

WHEREAS, it was at the time of the acquisition of said property, and remains the intention of the Union Township Committee to preserve Douglass Farm as a working farm and/or parkland or open space; and

WHEREAS, the Union Township Committee had determined that Douglass Farm is not needed for public open space use and wishes to sell said property as a permanently deed-restricted preserved farm, in order to fulfill the intention of the Township to protect this property from development, and to permanently preserve the Douglass Farm as an agricultural resource and preserved open space in Union Township; and

WHEREAS, the sale of the Douglass Farm as a preserved farm will also recoup for the taxpayers of Union Township a portion of the monies expended for the acquisition of the above described property, to be used for payment of any bonded indebtedness incurred in connection with the acquisition of said property, and good cause appearing,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Union, in the County of Hunterdon, State of New Jersey as follows:

1. In accordance with P.L. 1973, Chapter 355, §1, (N.J.S.A. 40A:12-13.1), the sale by auction of the above described real property, commonly known as the Douglass Farm, being known as Lot 13 in Block 29 on the tax map of the Township of the Union, having a gross acreage of 100.3632 acres, as a preserved farm, is hereby authorized and approved.
2. The sale of said property shall be pursuant to the provisions of subsection (a) of Section 13 of P.L. 1971, c. 199 (N.J.S.A. 40A:12-13), by open public sale at auction to the highest bidder after advertisement thereof in a newspaper circulating in Union Township, by two insertions at least once a week during two consecutive weeks, the last publication to be not earlier than seven days prior to such sale. The Township Committee reserves the right to reject all bids where the highest bid is not accepted, and notice of such reservation shall be included in the advertisement of the sale, and public notice thereof shall be given at the time of sale. No minimum bid or price shall be specified, and upon the completion of bidding, the highest bid may be accepted or all the bids may be rejected by the Union Township Committee.
3. Pursuant to N.J.S.A. 40A:12-13(a), each bidder shall be required to submit one bid under each Option A and Option B below.

(1) Option A - shall be for the real property subject to the following restrictions on the use to be made of such property, which shall be conditions or restrictions imposed, or interest or state retained, which the Township proposes to retain or impose:

- a. Prior to conveyance of the above property to the successful bidder, the Township shall execute onto itself a deed of easement permanently prohibiting any development of the premises for non agricultural purposes, and providing that the premises shall be retained for agricultural use and production in compliance with the terms and conditions set forth in said deed of easement, which shall be included in the information package supplied to all bidders.
- b. Conveyance to the successful bidder shall be subject to and conditioned upon all of the restrictions contained in the aforesaid deed from and to the Township of Union, and shall be so recited in the deed to the successful bidder. A copy of the proposed deed of conveyance to the successful bidder shall be provided with the information package supplied to all prospective bidders.

MINUTES OF REGULAR MEETING October 21, 2009

c. At the present time there is an existing single family residential building on the premises in addition to various agricultural buildings. Both of the above deeds shall provide that said existing single family residential building may continue to be utilized, either as a tenant house for farm labor, as a dwelling by the owner or as a residential rental premises.

d. In addition to the above existing single family dwelling, both of the above deeds shall provide that one (1) additional single family residence may be constructed within a Residential Exclusion Area not to exceed two acres, to be chosen by the successful bidder from a designated potential area of the Douglass Farm, and said home site to be more particularly described in a document to be recorded in the registry of deeds in the Hunterdon County Clerk's office prior to issuance of local clearance for the construction of said single family dwelling.

e. Conveyance to the successful bidder and all subsequent owners shall be subject to the terms and conditions of a certain use variance to permit construction of a second dwelling on a single lot, as set forth in the resolution of the Union Township Planning Board re: Douglass Farm, PB-09-05 dated August 12, 2009, including, but not limited to, the following conditions of said resolution:

1. All construction to be substantially as shown on the Plans, except as noted in paragraph 4 below (of said Planning Board resolution).
2. Applicant shall comply with the recommendations in the report of Kevin M. Smith, P.E., Planning Board Engineer, dated July 21, 2009, under "Technical Comments."
3. Applicant shall restrict the further subdivision of the property in the deed, to the satisfaction of the Board Attorney.
4. Applicant shall submit the location for any residential improvements to the Planning Board for review and shall stipulate the foregoing in the deed, to the satisfaction of the Board Attorney.
5. Applicant shall limit the Home Exception Area to its practical minimum, but not to exceed two acres.
6. Applicant shall submit any intended modifications of the barn and exterior of the existing home to the Historical Preservation Committee and the Township for review to ensure the historical integrity of any proposed change.
7. Applicant shall construct the new driveway for the second dwelling East/Northeast of the Home Exception Area.

f. Sale of the above property shall also be subject to an easement to the Township of Union for a 10 foot wide public horseback riding trail located along the northern edge of the property, as shown in the bid package, and to be more particularly described in the deed of conveyance.

g. The total area of structures on the property, including existing residential and farm-related structures, shall not exceed 45,000 square feet, which equates to a total allowable Floor Area Ratio (FAR), both permanent and temporary, of 1.0%. A total impervious coverage restriction of 2.5% shall apply to the property. Greenhouses, hoopouses and similar structures, whether temporary or permanent, shall be considered an integral part of the Floor Area Ratio and impervious coverage for purposes of this easement.

To the extent that this requirement is more restrictive than any other provision of law, this requirement shall apply. This restriction shall remain in effect notwithstanding any provisions to the contrary, or less restrictive, contained in the New Jersey Right to Farm Act or the regulations pursuant thereto, or the rules and regulations of the State Agriculture Development Committee.

h. Such other restrictions, easements, rules and regulations as are contained in the above referred to deeds, the information to bidders and related documentation in connection with this sale.

i. All restrictions, requirements and easements imposed as conditions of the sale of the above property shall run with the land, and any subsequent sale or conveyance of the property by the buyers' successors in right, title, or interest, shall be subject to said restrictions, requirements and easements.

(2) Option B – shall be for the real property to be sold free of all such restrictions, conditions, interests or estates on the part of the Township. (Note: Option B is listed solely in compliance with N.J.S.A. 40A: 12-13(a)(2). The Township Committee does not intend to accept any bids under Option B).

4. The Township may elect or reject either or both options and the highest bid for each. Such acceptance or rejection shall be made not later than at the second regular meeting of the Township Committee following the sale, and, if the Township Committee shall not so accept such highest bid, or reject all bids, said bids shall be deemed to have been rejected. Any such sale may be adjourned at the time advertised for not more than one week without readvertising.

5. Conveyance shall be made subject to any existing crop lease for the year 2009, and the right of the farmer/lessee to harvest his crop prior to the end of the calendar year.

6. Title shall be as set forth in the title information and survey supplied with the information to bidders. In the unlikely event of a title or survey defect, which cannot be cured prior to the anticipated date of closing, the Buyer's sole remedy shall be the refund of the Buyer's reasonable search and survey expenses. Under no circumstances shall the Buyer be entitled to any consequential or benefit of the bargain damages.

7. Environmental Assessment information and documentation shall be made available to bidders in the bid package in the event that a prospective bidder wishes to have additional investigation or testing conducted by a licensed professional, same may be performed at the bidder's expense by arrangement with the owner. Parties submitting bids shall be deemed to have reviewed the information supplied and caused such additional testing for environmental sampling to be conducted as they deem appropriate, and to have accepted the property "as is" as to environmental conditions.

8. Conveyance shall be made subject to all existing and reserved future rights of way for County and municipal roads as set forth in Seller's deed and survey.

BE IT FURTHER RESOLVED that the Mayor, Clerk and Township Attorney are authorized to sign all documents and do all things necessary to effectuate the sale and conveyance of the above described property as a permanently preserved farm in accordance with the terms of this resolution and other applicable requirements of law.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

Attorney Jost, Michele McBride, UTEC member and Planner Carl Hintz have reviewed the Deed of Easement that goes with the above resolution.

Mr. Bischoff made a motion to adopt the above resolution. Mr. Severino seconded. Vote: Ayes – Mr. Severino, Mr. Bischoff, Mr. Mazza, Abstain – Mrs. Dziubek. Motion carried.

- c. **Motion** – Approval of Revised Application Form for Use of the Fields and/or Facilities at the Township Parks.

Tabled for the next meeting, after Atty. Jost reviews the comments from our insurance agent, Mr. Tarricone.

NEW ORDINANCE – 1ST Reading

ORDINANCE #2009-6

APPROVING CHANGES TO THE PLANNING BOARD FEE SCHEDULE

The Attorney will have this completed for next meeting

REPORTS

- a. **Engineer's Report** – as submitted

- Damaged Concrete/Cable Guide – Perryville Road. Briefly discussed and Attorney will follow up.
- Cooks Cross Road/County Route 579 Drainage. Met with John Glynn re: drainage problems. Attorney and Engineer will compose a letter to the resident outlining what the Township's investigation produced and recommendations.
- Efficiency and Conservation Block Grants Program - Unchanged from last report.
- Perryville Estates – Engineer will send a letter.
- Road Opening Process – the Attorney will update the Ordinance.

- b. **Attorney's Report – Mr. Jost reported the following:**

- Billboard Resolution sent out to NJLM.
- Septic Resolution and the letter were sent. Mr. Bischoff said Mayor Walton of Hampton will support the resolution.
- Has matter for Executive Session.
- Another tractor trailer stuck under the culvert in Pattenburg. Suggested Engineer talk to railroad about painting better signage.

- c. **Mayor's Report – Mrs. Dziubek reported the following:**

- Stewardship – the RFP for the Hoffman property is still at the County Counsel. Spoke with Erik Peterson. If necessary, he will put the Mayor in touch directly with the County Counsel..
- Letter from SADC re: PIG Grant. Preliminary approval has been granted.
- Attended County Recycling Summit. Needs to be on the agenda to consider details. Brief discussion followed.
- Health insurance plans discussed. Mr. Bischoff would like the CFO to analyze various plans. Briefly discussed.
- Received an invitation to the opening of the Highlands Millennium Legacy Trail through Hunterdon County on Sunday October 25th.
- The Mayor would like the Committee to consider a resolution to oppose merging of small towns.

- The Attorney was going to check into some legal issues and follow up on the proposed trail at Finn Road Park.

Mr. Severino brought up the Mayors Fax Advisory referring to proposed legislation S-1303/A3062 “Inherently Beneficial Uses.” Discussed at length and the following Resolution presented for adoption:

RESOLUTION #2009-141
UNION TOWNSHIP, HUNTERDON COUNTY
RESOLUTION EXPRESSING OPPOSITION TO A-3062 AND S-1303 REGARDING
“INHERENTLY BENEFICIAL USES”

WHEREAS, A-3062 and S-1303 will establish renewable energy as an “inherently beneficial use” for purposes of municipal zoning; and

WHEREAS, A-3062/S-1303 defines “inherently beneficial use” as a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare, including, but not limited to, a hospital, school, child care center, group home or a wind, solar or photovoltaic energy facility or structure; and

WHEREAS, the Township of Union does not believe that renewable energy facilities demonstrate the same level of public benefit as is associated with other “inherently beneficial uses” including hospitals, schools, child care centers and group homes; and

WHEREAS, while the intent of A-3062/S-1303 is admirable, it permits solar panel fields and wind generation facilities to be placed anywhere in a municipality without regard to the comprehensive municipal master plan and zoning regulations or any other state planning initiatives; and

WHEREAS, while the Township of Union supports the intent to develop legislation that will encourage renewable energy in New Jersey, it must be done without negatively affecting the growth, farmland and open space preservation plans of municipalities; and

WHEREAS, municipalities are best equipped to address local land use issues and should be provided with discretion to establish appropriate regulations and controls consistent with their master plan.

NOW, THEREFORE, BE IT RESOLVED by the Township of Union, in the County of Hunterdon, State of New Jersey, hereby urge Governor Corzine to veto A-3062 and S-1303; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be forwarded to Senator Marcia A. Karrow, Assemblyman Michael J. Doherty, Assemblyman John Demaio, the New Jersey League of Municipalities and the Governor of the State of New Jersey.

Mr. Severino made a motion to adopt the above resolution. Mr. Bischoff seconded. Vote: Ayes – Mr. Severino, Mr. Bischoff, Mr. Mazza, Mrs. Dziubek. Motion carried.

d. Committee Reports

Mr. Mazza reported the following:

- Received a phone call from Joan Sotres from Robin Hill Farm re: flooding/drainage on the farm. Atty. Jost said the Township had offered to construct a drainage facility. The offer was refused by the owners. Mr. Mazza and the Engineer will inspect the property.

Mr. Severino reported the following:

- Has item for Executive Session.

Mr. Bischoff reported the following:

- The quote of the day - “There is no distinctive native American criminal classes, save Congress. Herbert Spencer, English Philosopher 1820-1903.”
- Contacted Assemblyman Doherty about court costs. A bill will be introduced and if passed would give the Township some financial relief.
- DOT Exit 11. Trying to coordinate meeting with Sue Dziamara, the meeting will be considered after election.
- Sent letter to Eileen Swan for additional funding for completion of the various Highlands Modules. Talked with Eileen Swan about the additional funding that is subject to submitting invoices.
- Sent email to Mr. Koenig inquiring about the Developers Agreement for the Milligan Farm project.
- Joint meeting tomorrow to discuss and review Highlands Modules 1 thru 5. No formal action will be taken.

e. Clerk’s Report - None

PUBLIC COMMENTS

Michele McBride – Asked about the resolution to auction the Douglass Farm.

PAYMENT OF THE BILLS

Mr. Mazza moved that all claims against the Township of Union as appearing in the Claims Register of this date be paid and that all checks listed hereinafter be issued in payment thereof. Mr. Bischoff seconded.

Vote: Ayes – Mr. Severino, Mr. Bischoff, Mr. Mazza, Mrs. Dziubek. Motion Carried.

EXECUTIVE SESSION – the following resolution introduced for adoption:

RESOLUTION 2009-142

Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12

WHEREAS, the Township Committee of the Township of Union is subject to certain requirements of the *Open Public Meetings Act*, N.J.S.A. 10:4-6, et. seq.,; and

WHEREAS, the *Open Public Meetings Act*, N.J.S.A. 10-4-12, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Township Committee of the Township of Union to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

1. *Matters Relating to Litigation, Negotiations and the Attorney-Client Privilege:* Any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is require in order for the attorney to exercise his ethical duties as a lawyer.

2. _____ *Matters Relating to the Employment Relationship:* Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Union, assembled in Executive session on October 21, 2009, at 8:48 p.m. in the Union Township Municipal Building, 140 Perryville Road, Hampton, New Jersey, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.

Mr. Mazza made a motion to adopt the above resolution to discuss Litigation/Contract Negotiations and Personnel. Mr. Bischoff seconded. Vote – Ayes: Mr. Severino, Mr. Bischoff, Mr. Mazza, Mrs. Dziubek. Motion Carried.

At 9:45 p.m., Mr. Mazza made a motion to go back to public session. Mr. Severino seconded. Vote: Ayes – Mr. Severino, Mr. Bischoff, Mr. Mazza, Mrs. Dziubek. Motion carried.

ADJOURNMENT – There being no further business to come before the Township Committee at this time, Mr. Bischoff made a motion to adjourn. Mr. Severino seconded the motion. Motion carried by unanimous favorable roll call vote.

Meeting adjourned at approximately 9:45 p.m.

Respectfully submitted,

Pat Essig
Administrative Assistant